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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,183	02/27/2007	Haruo Sugiyama	290673US0PCT	8492

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EXAMINER

SCHWADRON, RONALD B

ART UNIT	PAPER NUMBER
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1644

NOTIFICATION DATE	DELIVERY MODE
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10/12/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/578,183	Applicant(s) SUGIYAMA, HARUO	
	Examiner Ron Schwadron, Ph.D.	Art Unit 1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 8-17, 19-22, 24 and 26 is/are pending in the application.
- 5a) Of the above claim(s) 8-12, 19-22, 24 is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 13-17, 26 is/are rejected.
- 8) ☒ Claim(s) 17 is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/28/10</u> . | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 1644

1. Previously withdrawn claim 17 has been amended so that it now reads on the elected invention and is now under consideration.
2. Claim 17 is objected to under 37 CFR 1.75 as being a duplicate of claim 14. See MPEP § 706.03(k).
3. 35 U.S.C. 101 reads as follows:
Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
4. The rejection of claims 1-3,26 under 35 U.S.C. § 101 because the claims encompass a product of nature, and are thus not directed to patentable subject matter for the reasons elaborated in the previous Office Action is withdrawn in view of the amended claims and cancellation of claims that have been cancelled.
5. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. The rejection of claims 13-16 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for the reasons elaborated in the previous Office Action is withdrawn in view of the amended claims.
7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:
A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1644

8. The rejection of claims 26, 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Call et al. (US 2002/0128196) for the reasons elaborated in the previous Office action are withdrawn in view of the amended claim 26 and cancellation of claims 1-3.

9. The rejection of Claims 1-3,13-16,26 are under 35 U.S.C. 102(b) as being anticipated by Moore et al. (WO 02/099084) for the reasons elaborated in the previous Office action are withdrawn in view of the amended claim 26 and cancellation of claims 1-3.

10. Claims 26,13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Gaiger et al. (WO 00/18795).

Gaiger et al. disclose an immunogenic WT1 peptide containing the first 9 amino acids of SEQ. ID. No. 24 (see Seq Id. No:127) and Table 11. Gaiger et al. disclose that the immunogenic peptides can contain 16 amino acids from native WT1 (see claim 1). The aforementioned peptide elongated to 16 amino acids wherein the additional amino acids were native amino acids from WT1 would constitute the peptide of claim 26. Thus a routineer would at once envisaged the claimed peptide. See *In re Schauman*, 572 F.2d 312, 197 USPQ 5 (CCPA 1978) and *In re Petering*, 301 F.2d 676, 681, 133 USPQ 275,280 (CCPA 1962). Gaiger et al. disclose pharmaceutical compositions containing WT1 peptides and a pharmaceutically acceptable carrier (see page 31).

11. No claim is allowed.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is

not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ron Schwadron, Ph.D. whose telephone number is (571)272-0851. The examiner can normally be reached on Monday-Thursday 7:30-6:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla can be reached on 571 272-0735. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ron Schwadron/
Ron Schwadron, Ph.D.
Primary Examiner, Art Unit 1644